

## **REMARKS**

Reconsideration of the above-identified application in view of the amendments above and the remarks following is respectfully requested.

Claims 42-77 are in this case. Claims 42-77 have been rejected under 35 U.S.C. §102 (e). Independent claims 42 and 60 and dependent claims 43, 44, 49, 55, 56, 58, 59, 60, 61, 62, 70, 71, 72, 73, 74, 75, 76, and 77 are currently amended. Dependent claims 45-48, 51-54, and 63-69 are currently cancelled.

The claims before the Examiner are directed towards a method and network-enabled, cellular phone having image capture capability and network-based information retrieval capability based on queries generated at least in part by the captured, image data. No such method or device is taught or suggested in the art of record.

### **§ 102(e) Rejection**

The Examiner has rejected claims 42-77 under § 102(e) as being anticipated by Miner (US 7,653,831). Without prejudicing the patentability of the application as originally claimed, Applicant has decided to limit the data capture device to a network-enabled, cellular phone equipped with an image capture device.

- a) *"providing a network-enabled, cellular phone equipped with an image-capture device, ~~data-capture device~~ said cellular phone being configured to retrieve information from a network having at least one information provider operative to provide search results to queries defined at least in part by electronic representations of real-world entities captured by said image-capture device;"*

This particular embodiment was claimed in claim 47 and the Examiner asserted that this embodiment is also anticipated by Miner, column 7 lines 20-30. However, upon careful reading, it is clear that "*the cellular radio network*" of Miner is addressing the connection type between the **host server** and the **network** and does not teach anything about the network-enabled cellular phone itself. Furthermore, the entire document is silent in regards to a network-enabled cellular phone having image-based search capacity.

Miner does disclose a network enabled cellular phone having audio-based information retrieval capabilities as shown in the below excerpt from column 8, lines 27-30:

*For example, if the signals were (or include) **audio signals acquired**, for example from an audio contextual input device such as a microphone or stethoscope 192 or a **telephone** 199 (FIG. 1), the input processor 305 digitizes these audio signals and optionally improves their quality. (emphasis added)*

However, as previously noted there is no teaching or suggestion in Miner of a network-enabled cellular phone having image-based information retrieval capabilities.

It should be noted that a network-enabled, cellular phone having audio-based information retrieval capabilities is profoundly different than the claimed cellular phone having image-based search capacity. When network enabling a device to retrieve information from a network, the natural and most obvious advance is one in which the information retrieved is based on the type of data the device is capable of capturing as part of its normal course of operation. For example, a network-enabled, cellular phone would retrieve information based on its audio capture capability provided by the built-in microphone and a network-enabled camera would retrieve information based on its image capture capability.

In contrast, image capture is not essential to the normal course of operation of a cellular phone. One of average skill in the art would have no motivation to use a

network-enabled audio device such as a cellular phone to retrieve information from a network, based on image-data as is claimed in the present invention.

In view of the above amendments and remarks it is respectfully submitted that independent Claim 42 and hence dependent Claims 43, 44, 49, 50, 55, 56, 58, 59 and also independent claim 60 and its dependent claims 61, 62, 70, 71, 72, 73, 74, 75, 76, and 77 are in condition for allowance. Prompt notice of allowance is respectfully and earnestly solicited.

Respectfully submitted,



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Mark M. Friedman  
Attorney for Applicant  
Registration No. 33,883  
Dr. Mark Friedman Ltd.  
Moshe Aviv Tower, 54th Floor  
7 Jabotinsky Street  
Ramat Gan 52520 ISRAEL  
Tel: 972-3-6114100  
Fax: 972-3-6114101  
Email: [patents@friedpat.com](mailto:patents@friedpat.com)

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